

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CRAIG STAWIARSKI and CARA  
STAWIARSKI,

Plaintiffs-Appellants,

v

JILLIAN L. WALLACE, a/k/a JILLIAN L. HALL,  
EVERETT HALL, and CENTURY 21 – TODAY,

Defendants-Appellees.

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UNPUBLISHED  
January 17, 2006

No. 256253  
Oakland Circuit Court  
LC No. 2003-051231-CK

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CRAIG STAWIARSKI and CARA  
STAWIARSKI,

Plaintiffs-Appellees,

v

JILLIAN L. WALLACE, a/k/a JILLIAN L.  
HALL, and EVERETT HALL,

Defendants-Appellants.

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No. 257708  
Oakland Circuit Court  
LC No. 2003-051231-CK

Before: Donofrio, P.J., and Borrello and Davis, JJ.

PER CURIAM.

In this consolidated appeal, plaintiffs appeal as of right from an order granting defendants summary disposition, and defendants appeal as of right from an order denying them sanctions. We affirm.

This case arose out of plaintiffs' purchase of real property from defendants. Defendants accurately disclosed on their statutory sellers' disclosure statement, MCL 565.957, that they had flood insurance on the property and that the property had never sustained flooding. Defendants did not explicitly disclose that the property was located in a special flood plain because the house's basement was too low. Plaintiffs discovered the property's status and sued to recover their purchase money and rescind the purchase agreement.

Plaintiffs appeal the trial court's grant of summary disposition pursuant to MCR 2.116(C)(10), which was based on the trial court's finding that plaintiffs had been on adequate notice of the property's condition. We review such grants de novo, considering all submitted evidence in the light most favorable to the nonmoving party. *Maiden v Rozwood*, 461 Mich 109, 118, 120; 597 NW2d 817 (1999).

Plaintiffs argue that defendants were required by the Seller Disclosure Act, MCL 565.951 *et seq.*, to disclose the property's location in a special flood plain. Defendants complied with the requirements of MCL 565.957 by accurately disclosing that they had flood insurance on the property and that the property had never sustained flood damage. The statutory disclosure form prescribed by MCL 565.957 does not require a seller to state additionally whether the property is located in a flood zone. We may not impose a statutory duty of disclosure beyond what is plainly expressed in the statute. *People v Borchard-Ruhland*, 460 Mich 278, 284; 597 NW2d 1 (1999). Thus, defendants complied with their legal disclosure duties. Plaintiffs, armed with knowledge that there was flood insurance on the property, were on notice that the property might be located in a flood zone and had the means of determining this themselves. The trial court properly dismissed plaintiffs' claims for fraud, silent fraud, and misrepresentation. *Bergen v Baker*, 264 Mich App 376, 382; 691 NW2d 770 (2004); *Nieves v Bell Industries*, 204 Mich App 459, 464; 517 NW2d 235 (1994).

We do not address plaintiffs' claims of breach of contract and violation of the Michigan Consumer Protection Act, MCL 445.901 *et seq.* Plaintiffs do not independently address these claims on appeal, so they are abandoned. *Etefia v Credit Technologies, Inc.*, 245 Mich App 466, 471; 628 NW2d 577 (2001). We briefly note that the seller disclosure act specifically provides that a disclosure statement is not to be considered part of any contract. MCL 565.957. Additionally, the MCPA applies to trade or commerce, MCL 445.903(1), which is defined as the "conduct of a business," MCL 445.902(d). Thus, neither of these claims appears to apply in any event.

Defendants argue that the trial court erred by denying their motion for sanctions under MCR 2.114 on the ground that plaintiffs' action was frivolous. The trial court's decision regarding whether an action is frivolous is reviewed for clear error. *Kitchen v Kitchen*, 465 Mich 654, 661; 641 NW2d 245 (2002).

MCR 2.114(C) and (E) provide for sanctions when a document is signed without the attorney's belief that "the document is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law," and "not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." The trial court denied defendants' motion, concluding that plaintiffs' complaint set out "well grounded facts and cognizable theories of recovery."

Although the trial court rejected plaintiffs' attempt to extend defendants' obligations under the Seller Disclosure Act and concluded that plaintiffs had sufficient notice that the property might be in a flood zone, the court viewed plaintiffs' position, that information of any kind known to the seller and affecting real property must be disclosed on the seller's disclosure form, as a good-faith argument for extension or modification of existing law and, therefore, not frivolous. MCR 2.114(D)(2). We find no clear err in this determination.

Defendants also argue that plaintiffs' complaint was not well grounded in fact. This argument involves disputed facts that were not material to a resolution of the question of the scope of defendants' legal duty of disclosure under the Seller Disclosure Act. The trial court did not clearly err in refusing to base a sanction award on defendants' version of the events.

Further, the fact that plaintiffs filed a related lawsuit in federal court alleging different legal theories against different parties does not compel a conclusion that this action was frivolous or filed for an improper purpose. It is apparent from the record that the trial court understood and applied the correct legal standard when considering defendants' motion for sanctions, MCR 2.114(C) and (E), and we cannot conclude that the trial court clearly erred in denying the motion.

Affirmed.

/s/ Pat M. Donofrio

/s/ Stephen L. Borrello

/s/ Alton T. Davis